

REMARKS

I. Status of the Claims

Upon entry of the foregoing amendment, claims 1-71 are pending. Claims 1-7 and 12-46 and 67 are amended. Claims 8-11 and 47-66 are withdrawn. Claims 68-71 are new. Support for this amendment can be found, *inter alia*, on page 10, line 22, page 16, line 27 to page 17, line 7 and page 18, lines 18 and 29 of the specification, as internationally published as WO 2004/028560. This amendment adds no new matter, and its entry is respectfully requested.

II. Restriction Requirement and Election

Applicants elect Group I (claims 1-6 and 21) originally described by the Office as an invention "drawn to particles obtained by precipitating a nucleic acid on inert metal carriers in the presence of a nucleic acid condensing agent and a metal ion chelator." Office action at page 2.

The Office asserted that claims 7-20, 29-45 and 51-64 were objectionable under 37 CFR 1.75(c) because multiple dependent claims cannot depend from other multiple dependent claims. *Id.* Applicants thank Examiner Kelly for identifying this inadvertent violation, which stems from the PCT heritage of the present case, which permits such claim dependency. Applicants therefore take this opportunity to appropriately amend those objectionable product "particle" claims and thereby bring them into the scope of the subject matter covered in elected Group I. Examination of these claims are respectfully requested.

Claim 25 (Group IV) is amended to explicitly recite usage of the "particles of claim 1", which compels the inclusion of claim 25 and its dependent claims 26-46 in the elected Group I as well. Likewise, claims 22-24 (Groups II and III) are dependent from claim 1. The U.S. Patent and Trademark Office regulations provide guidance to Examiners regarding unity of invention:

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories: . . .

(1) A product and a process specially adapted for the manufacture of said product; or . . .

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; . . .

37 C.F.R. § 1.475(b). Accordingly, Applicants request that these groups be examined in the present application.

Additionally, claim 67, which was originally characterized as Group VII, is also requested to be rejoined as it has been amended to require the same technical features of Group I, namely particles with a homopolymer of arginine and a metal ion chelating agent on their surface. As the same technical features are found in both groups, Applicants assert that there would be no undue burden to examine both groups because a search for Group I would necessarily encompass the subject matter of claim 67. Therefore, examination of claim 67 is also requested.

In summary, Applicants respectfully request that claims 1-7, 12-46 and 68-71 be rejoined and examined in the present application.

CONCLUSION

Applicants invite Examiner Kelly to contact the undersigned by telephone to expedite examination at this stage of prosecution should a telephone discussion or personal interview expedite the process.

Respectfully submitted,

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